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Attorneys for Defendants:  
THE NORTHERN ASSURANCE COMPANY OF AMERICA as successor in interest to  
EMPLOYERS' SURPLUS LINES INSURANCE COMPANY and  
THE CONTINENTAL INSURANCE COMPANY as successor in interest to HARBOR  
INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SAN DIEGO GAS AND ELECTRIC  
COMPANY,

Plaintiff,

v.

NORTHERN ASSURANCE COMPANY OF  
AMERICA, as successor in interest to  
EMPLOYERS' SURPLUS LINES  
INSURANCE COMPANY;  
CONTINENTAL INSURANCE COMPANY  
as successor in interest to HARBOR  
INSURANCE COMPANY; ASSOCIATED  
ELECTRIC & GAS INSURANCE  
SERVICES LIMITED; and DOES 1-10,

Defendants.

Case No. **'15CV0636 MMARBB**

**NOTICE OF REMOVAL BY THE  
NORTHERN ASSURANCE COMPANY  
OF AMERICA AND THE CONTINENTAL  
INSURANCE COMPANY**

Removal Filed: March 20, 2015

NOW COMES The Northern Assurance Company of America<sup>1</sup> as successor in interest to  
Employers' Surplus Lines Insurance Company ("Northern Assurance") and The<sup>2</sup> Continental

<sup>1</sup> Northern Assurance merged into OneBeacon America Insurance Company on August 1, 2013. Additionally, Plaintiff incorrectly named Northern Assurance as "Northern Assurance Company of America" instead of "The Northern Assurance Company of America".

<sup>2</sup> Plaintiff incorrectly named Continental as "Continental Insurance Company" instead of "The Continental Insurance Company."

Insurance Company as successor in interest to Harbor Insurance Company (“Continental”), in their own capacity, by and through its counsel, and pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby give notice of the removal of this action to the United States District Court for the Southern District of California (“USDC Southern District”).

As grounds for this removal, Northern Assurance and Continental state as follows:

### **Removal Is Timely**

1. On or about February 11, 2015, Plaintiff San Diego Gas and Electric Company (“Plaintiff”) filed a civil action against defendants Northern Assurance, Continental and Associated Electric & Gas Insurance Services Limited (“AEGIS”) in the Superior Court of the State of California for the County of San Diego, now pending as Case No. 37-2015-00004804-CU-IC-CTL (the “State Court Action”). *See* Exhibit 1 to this Notice (Plaintiff’s Complaint).

2. Northern Assurance and Continental were served with the Complaint via personal service on or about February 19, 2015. *See* Declaration of Raymond J. Tittmann in Support of Notice of Removal by Northern Assurance and Continental, filed simultaneously (“Tittmann Decl.”), ¶ 2. Accordingly, this removal is timely under 28 U.S.C. § 1446 (b) (30 days for removal).

3. A copy of all documents filed and served in the State Court Action is attached as Exhibit 1 to this Notice.

### **This Court Has Diversity Jurisdiction over this Matter**

4. The present action is properly removable under 28 U.S.C. § 1441, which provides in pertinent part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the District Court of the United States for the district or division embracing the place where such action is pending. . . .

5. This Court has original jurisdiction of this case pursuant to 28 U.S.C. § 1332(a), as amended, which provides in pertinent part as follows:

The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between – (1) citizens of different States....

6. Additionally, the USDC Southern District is the district embracing the location where this State Court Action is currently pending.

7. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as Plaintiff seeks “millions of dollars for its defense” and claims damages in an amount in excess of \$10,000,000 pursuant to insurance policies issued to San Diego Gas and Electric Company. *See* Complaint ¶¶1, 76, 80 and 85.

### **Citizenship of the Parties**

8. Plaintiff is a California Corporation with its principal place of business in San Diego, California. The Complaint states Plaintiff’s principal place of business is San Diego, California. *See* Complaint ¶ 4. In addition, Exhibit A to the Tittmann Decl. is the California Business Entity Detail for Plaintiff from the California Secretary of State’s website as of March 9, 2015. This exhibit demonstrates that Plaintiff is domiciled in and is a citizen of the State of California. *See Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1087 (9th Cir. 2014) (when citizenship information is in the hands of the other party, “it was sufficient for Carolina to allege simply that the defendants were diverse to it”). Plaintiff is incorporated in California and maintains its principal place of business in California.

9. Complete diversity of citizenship exists in that Plaintiff is a citizen of the State of California and, as set forth in more detail in paragraphs 10-12, defendants Northern Assurance, Continental and AEGIS are corporations incorporated under the laws of different states and have a principal place of business outside of California.

10. Northern Assurance merged into OneBeacon America Insurance Company on August 1, 2013, which is a Massachusetts Corporation with its principal place of business in Canton, Massachusetts. Continental is a Pennsylvania Corporation with its principal place of business in Chicago, Illinois. Tittmann Decl. ¶ 4 and Exhibit B, Massachusetts Corporations Division Business Entity Detail for Northern Assurance and California Business Entity Detail for

Continental; *Hertz Corp. v. Friend*, 559 U.S. 77, 81 (2010) (holding that a corporation’s “principal place of business” is “where a corporation’s high level officers direct, control, and coordinate the corporation’s activities,” which “will typically be a . . . corporation’s headquarters.”).

11. Northern Assurance and Continental are not incorporated in California and do not maintain their principal place of business in California. The majority of Northern Assurance executive functions, production activities and operations occur in Canton, Massachusetts, while Continental’s occur in Chicago, Illinois. Tittmann Decl. ¶ 4. Canton, Massachusetts is Northern Assurance’s “nerve center” and Continental’s is in Chicago, Illinois. *Hertz Corp.* 559 U.S. 77 at 92-93. Therefore, Northern Assurance is a citizen of Massachusetts and Continental is a citizen of Illinois for diversity jurisdiction purposes. 28 U.S.C. § 1332(c)(1); *see also Indus. Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090, 1092 (9th Cir. 1990); *Hertz Corp.*, *supra*, 559 U.S. 77 at 92-93.

12. Defendant AEGIS is a mutual insurance company organized under the laws of Bermuda and does not maintain a principal place of business in California. See 28 U.S.C. § 1332(c)(1). Defendant AEGIS consents to and joins in this Notice of Removal. Defendant AEGIS’s Joinder is attached hereto as Exhibit 2.

13. As such, Plaintiff, on the one hand, and defendants Northern Assurance, Continental and AEGIS, on the other hand, are citizens of different states, and complete diversity of citizenship exists between the parties pursuant to 28 U.S.C. §1332; *See Carolina Cas. Ins. Co.*, 741 F.3d at 1087-88 (“it was sufficient for Carolina to allege simply that the defendants were diverse to it”).

### **Adoption and Reservation of Defenses**

14. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of any right of Northern Assurance and Continental to assert any defense or affirmative matter, including, but not limited to, the defenses of: (1) lack of jurisdiction over the person; (2) improper venue; (3) insufficiency of process; (4) insufficiency of service of process; (5) improper joinder of claims and/or parties; (6) failure to state a claim; (7) failure to join

1 indispensable parties; (8) any other pertinent defense available under California or Federal Rule  
2 of Civil Procedure Rule 12, any state or federal statute, or otherwise; or (9) arbitration.

3 15. Northern Assurance and Continental reserve the right to supplement this notice by  
4 adding any jurisdictional defenses which may independently support a basis for removal.

5 16. This Notice, together with the additional documents required under the local rules,  
6 will be served on Plaintiff. Also, as required by 28 U.S.C. §1446 (d), a copy of this Notice will  
7 also be filed with the Clerk of the Superior Court of San Diego, California, the court in which the  
8 state court action is filed.

9 WHEREFORE, Defendants Northern Assurance and Continental ask the Court to take  
10 jurisdiction of this action by issuing all necessary orders and process to remove this action from  
11 the Superior Court for the State of California, County of San Diego, to this Court.

12 Dated: March 20, 2015

EDISON, McDOWELL & HETHERINGTON LLP

13  
14 By: /s/ Raymond J. Tittmann

15 Raymond J. Tittmann

16 Robert D. Whitney

17  
18 Attorneys for Defendant  
19 NORTHERN ASSURANCE COMPANY OF  
20 AMERICA, as successor in interest to  
21 EMPLOYERS' SURPLUS LINES INSURANCE  
22 COMPANY; THE CONTINENTAL INSURANCE  
23 COMPANY as successor in interest to HARBOR  
24 INSURANCE COMPANY  
25  
26  
27  
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**CERTIFICATE OF SERVICE***San Diego Gas & Electric Company v. Northern Assurance Company of America et al.*

United States District Court: Southern District

Case No.

At the time of service I was over 18 years of age and not a party to this action. I am employed by EDISON, McDOWELL & HETHERINGTON LLP. My business address is 1 Kaiser Plaza, Suite 1010, Oakland, CA 94612. My business telephone number is (510) 628.2145; my business fax number is (510) 628.2146. On this date I served the following document(s):

**NOTICE OF REMOVAL BY THE NORTHERN ASSURANCE COMPANY  
OF AMERICA AND THE CONTINENTAL INSURANCE COMPANY**

**DECLARATION OF RAYMOND J. TITTMANN IN SUPPORT OF  
NOTICE OF REMOVAL BY NORTHERN ASSURANCE COMPANY OF  
AMERICA AND THE CONTINENTAL INSURANCE COMPANY**

**CIVIL CASE COVER SHEET**

on the person or persons listed below, through their respective attorneys of record in this action, by placing true copies thereof in sealed envelopes or packages addressed as shown below by the following means of service:

Kirk Pasich Sandra Thayer Fiona Chaney DICKSTEIN SHAPIRO LLP 2049 Century Park East, Suite 700 Los Angeles, CA 90067-3109 Telephone: (31 0) 772-8300 Facsimile: (310) 772-8301 pasichk@dicksteinshapiro.com thayers@dicksteinshapiro.com chaneyf@dicksteinshapiro.com	Attorneys for PLAINTIFF  SAN DIEGO GAS & ELECTRIC COMPANY
Susan J. Field Lawrence A. Tabb MUSICK, PEELER & GARRETT LLP One Wilshire Boulevard, Suite 2000 Los Angeles, California 90017-3383 Telephone: (213) 629-7600 Facsimile: (213) 624-1376 l.tabb@mpglaw.com s.field@mpglaw.com  John L. Rivkin Steven Zuckermann George D. Kappus RIVKIN RADLER LLP 926 RXR Plaza Uniondale, New York 11556	Attorneys for DEFENDANT  ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED

Case No.

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NOTICE OF REMOVAL BY THE NORTHERN ASSURANCE COMPANY OF AMERICA AND THE  
CONTINENTAL INSURANCE COMPANY

Telephone: (516) 357-3333 <i>john.rivkin@rivkin.com</i> <i>steven.zuckermann@rivkin.com</i> <i>george.kappus@rivkin.com</i>	
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**Via Mail**

☒ By enclosing a true and correct copy thereof in a sealed envelope and, following ordinary business practices, said envelope was placed for mailing and collection in the offices of Edison, McDowell & Hetherington LLP in the appropriate place for mail collected for deposit with the United States Postal Service. I am readily familiar with the Firm's practice for collection and processing of correspondence/documents for mailing with the United States Postal Service and that said correspondence/documents are deposited with the United States Postal Service in the ordinary course of business on this same day.

**Via Facsimile**

☐ By transmitting via facsimile the correspondence/document(s) listed above from fax number 510.628.2146, to the fax number(s) set forth above during the ordinary course of business on this date before 5:00 p.m. I am readily familiar with the Firm's practice for collection and processing of correspondence/ document(s) via facsimile transmission(s). The facsimile transmission(s) was reported as complete and without error, and a copy of the transmission report is attached.

**Via Overnight Delivery**

☐ By enclosing a true and correct copy thereof in a sealed envelope(s), addressed as above, and placing for collection by overnight mail delivery service. I am readily familiar with the Firm's practice for collection and processing of correspondence/documents for overnight delivery, and any correspondence/document(s) placed for collection for overnight delivery would, in the ordinary course of business, be delivered to an authorized courier or driver authorized by the overnight mail delivery service to receive correspondence/documents(s), with delivery fees paid or provided for, this same day, for delivery on the following business day.

**Via Hand Delivery**

☐ By enclosing a true and correct copy thereof in a sealed envelope(s), addressed as above, and causing each envelope(s) to be hand-served on this day by courier service following ordinary business practices.

**Via Electronic Service**

☐ Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below.

I declare that I am employed in the office of the member of the bar of this court at whose direction the service was made.

EXECUTED on March 20, 2015 at Oakland, California.

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Venice Salvacruz